



# House of Representatives

## File No. 803

General Assembly

January Session, 2017

**(Reprint of File No. 457)**

Substitute House Bill No. 7167  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 26, 2017

### ***AN ACT CONCERNING BEHAVIOR ANALYSTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 20-185i of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2018*):

3 (a) As used in this section, sections 2 to 5, inclusive, of this act and  
4 section 19a-14, as amended by this act:

5 (1) "Behavior Analyst Certification Board" means the nonprofit  
6 corporation established to meet the professional credentialing needs of  
7 behavior analysts, governments and consumers of behavior analysis  
8 services and accredited by the National Council for Certifying  
9 Agencies in Washington, D.C., or any successor national accreditation  
10 organization;

11 [(2) "Board certified behavior analyst (BCBA)" means a person who  
12 has been certified as a behavior analyst by the Behavior Analyst  
13 Certification Board; and

14 (3) "Board certified assistant behavior analyst (BCABA)"]

15 (2) "Behavior analysis" means the design, implementation and  
16 evaluation of environmental modifications, using behavior stimuli and  
17 consequences, including the use of direct observation, measurement  
18 and functional analysis of the relationship between the environment  
19 and behavior, to produce socially significant improvement in human  
20 behavior, but does not include: (A) Psychological testing, (B)  
21 neuropsychology, (C) cognitive therapy, (D) sex therapy, (E)  
22 psychoanalysis, (F) hypnotherapy, (G) cognitive behavioral therapy,  
23 (H) psychotherapy, or (I) long-term counseling as treatment  
24 modalities;

25 (3) "Behavior analyst" means a person who is licensed to practice  
26 behavior analysis under the provisions of section 3 or 4 of this act; and

27 (4) "Assistant behavior analyst" means a person who has been  
28 certified as an assistant behavior analyst by the Behavior Analyst  
29 Certification Board to assist in the practice of behavior analysis under  
30 the supervision of a behavior analyst.

31 (b) No person, unless certified by the Behavior Analyst Certification  
32 Board as a [board certified behavior analyst or a] board certified  
33 assistant behavior analyst, shall use in connection with his or her name  
34 or place of business: (1) The words ["board certified behavior analyst",  
35 "certified behavior analyst",] "board certified assistant behavior  
36 analyst" or "certified assistant behavior analyst", (2) the letters [,  
37 "BCBA" or] "BCABA", or (3) any words, letters, abbreviations or  
38 insignia indicating or implying that he or she is a [board certified  
39 behavior analyst or] board certified assistant behavior analyst or in any  
40 way, orally, in writing, in print or by sign, directly or by implication,  
41 represent himself or herself as a [board certified behavior analyst or]  
42 board certified assistant behavior analyst. Any person who violates the  
43 provisions of this section shall be guilty of a class D felony. For the  
44 purposes of this section, each instance of contact or consultation with  
45 an individual which is in violation of any provision of this section shall

46 constitute a separate offense.

47 Sec. 2. (NEW) (*Effective July 1, 2018*) (a) No person may practice  
48 behavior analysis unless licensed pursuant to section 3 or 4 of this act.

49 (b) No person may use the title "behavior analyst" or make use of  
50 any title, words, letters or abbreviations that may reasonably be  
51 confused with licensure as a behavior analyst unless such person is  
52 licensed pursuant to section 3 or 4 of this act.

53 (c) The provisions of this section shall not apply to a person who (1)  
54 provides behavior analysis or assists in the practice of behavior  
55 analysis while acting within the scope of practice of the person's  
56 license or certification and training, provided the person does not hold  
57 himself or herself out to the public as a behavior analyst, (2) is a  
58 student enrolled in a behavior analysis educational program  
59 accredited by the Behavior Analyst Certification Board, or a graduate  
60 education program in which behavior analysis is an integral part of the  
61 student's course of study and such student is performing such  
62 behavior analysis or assisting in behavior analysis under the direct  
63 supervision of a behavior analyst, (3) is an instructor in a course  
64 approved by the Behavior Analyst Certification Board, (4) is an  
65 assistant behavior analyst working under the supervision of a behavior  
66 analyst in accordance with the standards established by the Behavior  
67 Analyst Certification Board, (5) implements an intervention based on  
68 behavior analysis under the supervision of a behavior analyst, or (6) is  
69 a family member, guardian or caretaker implementing a behavior  
70 analysis treatment plan under the direction of a behavior analyst.

71 Sec. 3. (NEW) (*Effective July 1, 2018*) (a) The Commissioner of Public  
72 Health shall grant a license as a behavior analyst to any applicant who  
73 furnishes evidence satisfactory to the commissioner that such applicant  
74 is certified as a behavior analyst by the Behavior Analyst Certification  
75 Board. The commissioner shall develop and provide application forms.  
76 The application fee shall be three hundred fifty dollars.

77 (b) Licenses issued under this section may be renewed annually.

78 The fee for such renewal shall be one hundred seventy-five dollars.  
79 Each behavior analyst applying for license renewal shall furnish  
80 evidence satisfactory to the commissioner of having current  
81 certification with the Behavior Analyst Certification Board.

82 Sec. 4. (NEW) (*Effective July 1, 2018*) A person, who is not eligible for  
83 licensure under section 3 of this act, may apply for licensure by  
84 endorsement as a behavior analyst. Such applicant shall present  
85 evidence satisfactory to the commissioner that the applicant is licensed  
86 or certified as a behavior analyst, or as a person entitled to perform  
87 similar services under a different designation, in another state or  
88 jurisdiction that has requirements for practicing in such capacity that  
89 are substantially similar to, or higher than, those of this state and that  
90 there are no disciplinary actions or unresolved complaints pending.

91 Sec. 5. (NEW) (*Effective July 1, 2018*) The Commissioner of Public  
92 Health may take any disciplinary action set forth in section 19a-17 of  
93 the general statutes against a behavior analyst for any of the following  
94 reasons: (1) Failure to conform to the accepted standards of the  
95 profession; (2) conviction of a felony; (3) fraud or deceit in obtaining or  
96 seeking reinstatement of a license to practice behavior analysis; (4)  
97 fraud or deceit in the practice of behavior analysis; (5) negligent,  
98 incompetent or wrongful conduct in professional activities; (6)  
99 physical, mental or emotional illness or disorder resulting in an  
100 inability to conform to the accepted standards of the profession; (7)  
101 alcohol or substance abuse; or (8) wilful falsification of entries in any  
102 hospital, patient or other record pertaining to behavior analysis. The  
103 commissioner may order a license holder to submit to a reasonable  
104 physical or mental examination if his or her physical or mental  
105 capacity to practice safely is the subject of an investigation. The  
106 commissioner may petition the superior court for the judicial district of  
107 Hartford to enforce such order or any action taken pursuant to section  
108 19a-17 of the general statutes. The commissioner shall give notice and  
109 an opportunity to be heard on any contemplated action under section  
110 19a-17 of the general statutes.

111 Sec. 6. Subsection (c) of section 19a-14 of the general statutes are  
112 repealed and the following is substituted in lieu thereof (*Effective July*  
113 *1, 2018*):

114 (c) No board shall exist for the following professions that are  
115 licensed or otherwise regulated by the Department of Public Health:

116 (1) Speech and language pathologist and audiologist;

117 (2) Hearing instrument specialist;

118 (3) Nursing home administrator;

119 (4) Sanitarian;

120 (5) Subsurface sewage system installer or cleaner;

121 (6) Marital and family therapist;

122 (7) Nurse-midwife;

123 (8) Licensed clinical social worker;

124 (9) Respiratory care practitioner;

125 (10) Asbestos contractor and asbestos consultant;

126 (11) Massage therapist;

127 (12) Registered nurse's aide;

128 (13) Radiographer;

129 (14) Dental hygienist;

130 (15) Dietitian-Nutritionist;

131 (16) Asbestos abatement worker;

132 (17) Asbestos abatement site supervisor;

- 133 (18) Licensed or certified alcohol and drug counselor;
- 134 (19) Professional counselor;
- 135 (20) Acupuncturist;
- 136 (21) Occupational therapist and occupational therapist assistant;
- 137 (22) Lead abatement contractor, lead consultant contractor, lead  
138 consultant, lead abatement supervisor, lead abatement worker,  
139 inspector and planner-project designer;
- 140 (23) Emergency medical technician, advanced emergency medical  
141 technician, emergency medical responder and emergency medical  
142 services instructor;
- 143 (24) Paramedic;
- 144 (25) Athletic trainer;
- 145 (26) Perfusionist;
- 146 (27) Master social worker subject to the provisions of section 20-  
147 195v;
- 148 (28) Radiologist assistant, subject to the provisions of section 20-74tt;
- 149 (29) Homeopathic physician;
- 150 (30) Certified water treatment plant operator, certified distribution  
151 system operator, certified small water system operator, certified  
152 backflow prevention device tester and certified cross connection  
153 survey inspector, including certified limited operators, certified  
154 conditional operators and certified operators in training;
- 155 (31) Tattoo technician; [and]
- 156 (32) Genetic counselor; and
- 157 (33) Behavior analyst.

158 The department shall assume all powers and duties normally vested  
159 with a board in administering regulatory jurisdiction over such  
160 professions. The uniform provisions of this chapter and chapters 368v,  
161 369 to 381a, inclusive, 383 to 388, inclusive, 393a, 395, 398, 399, 400a  
162 and 400c, including, but not limited to, standards for entry and  
163 renewal; grounds for professional discipline; receiving and processing  
164 complaints; and disciplinary sanctions, shall apply, except as otherwise  
165 provided by law, to the professions listed in this subsection.

166 Sec. 7. Subdivision (6) of section 20-413 of the general statutes is  
167 repealed and the following is substituted in lieu thereof (*Effective July*  
168 *1, 2018*):

169 (6) The provision of applied behavior analysis services by a [board  
170 certified] licensed behavior analyst or a board certified assistant  
171 behavior analyst, as such terms are defined in section 20-185i, as  
172 amended by this act, in accordance with section 10-76ii, as amended by  
173 this act.

174 Sec. 8. Section 10-76ii of the general statutes is repealed and the  
175 following is substituted in lieu thereof (*Effective July 1, 2018*):

176 [(a)] On and after July 1, 2012, a local or regional board of education  
177 that is responsible for providing special education and related services  
178 to a child, pursuant to section 10-76a, shall provide applied behavior  
179 analysis services to any such child with autism spectrum disorder if  
180 the individualized education program or plan pursuant to Section 504  
181 of the Rehabilitation Act of 1973 requires such services. [(1) Such  
182 services shall be provided by a person who is, subject to the provisions  
183 of subsection (b) of this section, (A) licensed by the Department of  
184 Public Health or certified by the Department of Education and such  
185 services are within the scope of practice of such license or certificate, or  
186 (B) certified by the Behavior Analyst Certification Board as a behavior  
187 analyst or assistant behavior analyst, provided such assistant behavior  
188 analyst is working under the supervision of a certified behavior  
189 analyst. (2) A teacher or paraprofessional may implement the

190 individualized education program or plan pursuant to Section 504 of  
191 the Rehabilitation Act of 1973 providing for such applied behavior  
192 analysis services, provided such teacher or paraprofessional is under  
193 the supervision of a person described in subdivision (1) of this  
194 subsection. For purposes of this section, "applied behavior analysis"  
195 means the design, implementation and evaluation of environmental  
196 modifications, using behavioral stimuli and consequences, including  
197 the use of direct observation, measurement and functional analysis of  
198 the relationship between the environment and behavior, to produce  
199 socially significant improvement in human behavior.

200 (b) If the Commissioner of Education determines that there are  
201 insufficient certified or licensed personnel available to provide applied  
202 behavior analysis services in accordance with the provisions of  
203 subsection (a) of this section, the commissioner may authorize the  
204 provision of such services by persons who: (1) Hold a bachelor's  
205 degree in a related field; (2) have completed (A) a minimum of nine  
206 credit hours of coursework from a course sequence approved by the  
207 Behavior Analyst Certification Board, or (B) coursework that meets the  
208 eligibility requirement to sit for the board certified behavior analyst  
209 examination; and (3) are supervised by a board certified behavior  
210 analyst.

211 (c)] Nothing in this section shall be construed to require the  
212 inclusion of applied behavior analysis services in an individualized  
213 education program or plan pursuant to Section 504 of the  
214 Rehabilitation Act of 1973.

215 Sec. 9. Subsection (a) of section 10-145t of the general statutes is  
216 repealed and the following is substituted in lieu thereof (*Effective July*  
217 *1, 2018*):

218 (a) For purposes of this section, "school support staff" means any  
219 person employed by a local or regional board of education as a [board  
220 certified] behavior analyst or [board certified] assistant behavior  
221 analyst, as such terms are defined in section 20-185i, as amended by



222 this act, athletic coach, as defined in section 10-149d, or school  
223 paraprofessional.

224 Sec. 10. Subsections (a) to (c), inclusive, of section 38a-488b of the  
225 general statutes are repealed and the following is substituted in lieu  
226 thereof (*Effective July 1, 2018*):

227 (a) As used in this section:

228 (1) "Applied behavior analysis" means the design, implementation  
229 and evaluation of environmental modifications, using behavioral  
230 stimuli and consequences, including the use of direct observation,  
231 measurement and functional analysis of the relationship between  
232 environment and behavior, to produce socially significant  
233 improvement in human behavior.

234 (2) "Autism spectrum disorder services provider" means any person,  
235 entity or group that provides treatment for an autism spectrum  
236 disorder pursuant to this section.

237 (3) "Autism spectrum disorder" means "autism spectrum disorder"  
238 as set forth in the most recent edition of the American Psychiatric  
239 Association's "Diagnostic and Statistical Manual of Mental Disorders".

240 (4) "Behavioral therapy" means any interactive behavioral therapies  
241 derived from evidence-based research and consistent with the services  
242 and interventions designated by the Commissioner of Social Services  
243 pursuant to subsection (l) of section 17a-215c, including, but not  
244 limited to, applied behavior analysis, cognitive behavioral therapy, or  
245 other therapies supported by empirical evidence of the effective  
246 treatment of individuals diagnosed with autism spectrum disorder,  
247 that are: (A) Provided to children less than twenty-one years of age;  
248 and (B) provided or supervised by (i) a licensed behavior analyst, [who  
249 is certified by the Behavior Analyst Certification Board,] (ii) a licensed  
250 physician, or (iii) a licensed psychologist. For the purposes of this  
251 subdivision, behavioral therapy is "supervised by" such licensed  
252 behavior analyst, licensed physician or licensed psychologist when

253 such supervision entails at least one hour of face-to-face supervision of  
254 the autism spectrum disorder services provider by such licensed  
255 behavior analyst, licensed physician or licensed psychologist for each  
256 ten hours of behavioral therapy provided by the supervised provider.

257 (5) "Diagnosis" means the medically necessary assessment,  
258 evaluation or testing performed by a licensed physician, licensed  
259 psychologist or licensed clinical social worker to determine if an  
260 individual has autism spectrum disorder.

261 (b) Each individual health insurance policy providing coverage of  
262 the type specified in subdivisions (1), (2), (4), (11) and (12) of section  
263 38a-469 that is delivered, issued for delivery, renewed, amended or  
264 continued in this state shall provide coverage for the diagnosis and  
265 treatment of autism spectrum disorder. For the purposes of this section  
266 and section 38a-482a, autism spectrum disorder shall be considered an  
267 illness.

268 (c) Such policy shall provide coverage for the following treatments,  
269 provided such treatments are (1) medically necessary, and (2)  
270 identified and ordered by a licensed physician, licensed psychologist  
271 or licensed clinical social worker for an insured who is diagnosed with  
272 autism spectrum disorder, in accordance with a treatment plan  
273 developed by a licensed behavior analyst, [who is certified by the  
274 Behavior Analyst Certification Board,] licensed physician, licensed  
275 psychologist or licensed clinical social worker, pursuant to a  
276 comprehensive evaluation or reevaluation of the insured:

277 (A) Behavioral therapy;

278 (B) Prescription drugs, to the extent prescription drugs are a  
279 covered benefit for other diseases and conditions under such policy,  
280 prescribed by a licensed physician, a licensed physician assistant or an  
281 advanced practice registered nurse for the treatment of symptoms and  
282 comorbidities of autism spectrum disorder;

283 (C) Direct psychiatric or consultative services provided by a

284 licensed psychiatrist;

285 (D) Direct psychological or consultative services provided by a  
286 licensed psychologist;

287 (E) Physical therapy provided by a licensed physical therapist;

288 (F) Speech and language pathology services provided by a licensed  
289 speech and language pathologist; and

290 (G) Occupational therapy provided by a licensed occupational  
291 therapist.

292 Sec. 11. Subsections (a) to (c), inclusive, of section 38a-514b of the  
293 general statutes are repealed and the following is substituted in lieu  
294 thereof (*Effective July 1, 2018*):

295 (a) As used in this section:

296 (1) "Applied behavior analysis" means the design, implementation  
297 and evaluation of environmental modifications, using behavioral  
298 stimuli and consequences, including the use of direct observation,  
299 measurement and functional analysis of the relationship between  
300 environment and behavior, to produce socially significant  
301 improvement in human behavior.

302 (2) "Autism spectrum disorder services provider" means any person,  
303 entity or group that provides treatment for autism spectrum disorder  
304 pursuant to this section.

305 (3) "Autism spectrum disorder" means "autism spectrum disorder"  
306 as set forth in the most recent edition of the American Psychiatric  
307 Association's "Diagnostic and Statistical Manual of Mental Disorders".

308 (4) "Behavioral therapy" means any interactive behavioral therapies  
309 derived from evidence-based research and consistent with the services  
310 and interventions designated by the Commissioner of Social Services  
311 pursuant to subsection (l) of section 17a-215c, including, but not

312 limited to, applied behavior analysis, cognitive behavioral therapy, or  
313 other therapies supported by empirical evidence of the effective  
314 treatment of individuals diagnosed with autism spectrum disorder,  
315 that are: (A) Provided to children less than twenty-one years of age;  
316 and (B) provided or supervised by (i) a licensed behavior analyst, [who  
317 is certified by the Behavior Analyst Certification Board,] (ii) a licensed  
318 physician, or (iii) a licensed psychologist. For the purposes of this  
319 subdivision, behavioral therapy is "supervised by" such licensed  
320 behavior analyst, licensed physician or licensed psychologist when  
321 such supervision entails at least one hour of face-to-face supervision of  
322 the autism spectrum disorder services provider by such licensed  
323 behavior analyst, licensed physician or licensed psychologist for each  
324 ten hours of behavioral therapy provided by the supervised provider.

325 (5) "Diagnosis" means the medically necessary assessment,  
326 evaluation or testing performed by a licensed physician, licensed  
327 psychologist or licensed clinical social worker to determine if an  
328 individual has autism spectrum disorder.

329 (b) Each group health insurance policy providing coverage of the  
330 type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-  
331 469 that is delivered, issued for delivery, renewed, amended or  
332 continued in this state shall provide coverage for the diagnosis and  
333 treatment of autism spectrum disorder. For the purposes of this section  
334 and section 38a-513c, autism spectrum disorder shall be considered an  
335 illness.

336 (c) Such policy shall provide coverage for the following treatments,  
337 provided such treatments are (1) medically necessary, and (2)  
338 identified and ordered by a licensed physician, licensed psychologist  
339 or licensed clinical social worker for an insured who is diagnosed with  
340 autism spectrum disorder, in accordance with a treatment plan  
341 developed by a licensed behavior analyst, [who is certified by the  
342 Behavior Analyst Certification Board,] licensed physician, licensed  
343 psychologist or licensed clinical social worker, pursuant to a  
344 comprehensive evaluation or reevaluation of the insured:

- 345 (A) Behavioral therapy;
- 346 (B) Prescription drugs, to the extent prescription drugs are a  
 347 covered benefit for other diseases and conditions under such policy,  
 348 prescribed by a licensed physician, a licensed physician assistant or an  
 349 advanced practice registered nurse for the treatment of symptoms and  
 350 comorbidities of autism spectrum disorder;
- 351 (C) Direct psychiatric or consultative services provided by a  
 352 licensed psychiatrist;
- 353 (D) Direct psychological or consultative services provided by a  
 354 licensed psychologist;
- 355 (E) Physical therapy provided by a licensed physical therapist;
- 356 (F) Speech and language pathology services provided by a licensed  
 357 speech and language pathologist; and
- 358 (G) Occupational therapy provided by a licensed occupational  
 359 therapist.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2018</i>	20-185i
Sec. 2	<i>July 1, 2018</i>	New section
Sec. 3	<i>July 1, 2018</i>	New section
Sec. 4	<i>July 1, 2018</i>	New section
Sec. 5	<i>July 1, 2018</i>	New section
Sec. 6	<i>July 1, 2018</i>	19a-14(c)
Sec. 7	<i>July 1, 2018</i>	20-413(6)
Sec. 8	<i>July 1, 2018</i>	10-76ii
Sec. 9	<i>July 1, 2018</i>	10-145t(a)
Sec. 10	<i>July 1, 2018</i>	38a-488b(a) to (c)
Sec. 11	<i>July 1, 2018</i>	38a-514b(a) to (c)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 18 \$	FY 19 \$
Public Health, Dept.	GF - Cost	7,283	58,191
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	740	22,083
Resources of the General Fund	GF - Revenue Gain	None	240,100

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

The bill results in a state cost of approximately \$8,023 in FY 18 and a net General Fund revenue gain of \$159,826 in FY 19 from the establishment of a new "Behavior Analyst" (BA) licensure category under the Department of Public Health (DPH).

The cost to the DPH in FY 18 primarily reflects two half-time positions, an Office Assistant and a Special Investigator, starting on 6/1/18. This start date allows for one month of training before the implementation of the new licensure category on 7/1/18. The cost of salaries (\$4,833 in FY 18 and \$57,991 in FY 19), equipment (\$2,450 in FY 18 for two computers with software and one scanner), and associated other expenses (\$200 annually beginning in FY 19 for printing, postage, and office supplies) are estimated to total \$7,283 in FY 18 and \$58,191 in FY 19. The State Comptroller fringe benefit cost for these positions is \$740 in FY 18 and \$22,083 in FY 19.

<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 38.08% of payroll in FY 18 and FY 19.

General Fund revenue of \$240,100 in FY 19 is anticipated from the initial licensure application fee of \$350. It is anticipated that 586 board-certified BAs in Connecticut, and approximately 100 more individuals, will apply for licensure in FY 19. As licenses must be renewed annually (the fee is \$175 under the bill) revenue from license renewals will not be generated until the out years.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of initial and renewal BA licenses issued by DPH, associated costs (a 2% cost inflation is anticipated), and General Fund revenue from fees. In the out years, approximately 100 individuals are anticipated to seek BA licensure annually. This would result in a revenue gain of \$35,000 annually from initial licensure fees. Anticipated revenue of \$35,000 initial license fees and \$120,050 from license renewals will exceed state costs of \$58,091 by \$96,959 in FY 20.

House “A” delayed the effective date of the bill from 1/1/18 to 7/1/18 and made BA licensure renewal annual instead of biennial. These changes altered the fiscal impact identified on the underlying bill by: (1) reducing the cost to DPH by \$29,196 and the cost to the State Comptroller by \$4,441 in FY 18, (2) eliminating an anticipated General Fund revenue gain of \$205,100 in FY 18, (3) generating General Fund revenue of the same amount in FY 19, and (4) increasing General Fund revenue by approximately \$120,000 from renewal fees in the odd-numbered years beginning in FY 21.

Sources: Behavior Analyst Certification Board®, Inc.  
website: <http://info.bacb.com/o.php?page=100155>

**OLR Bill Analysis****sHB 7167 (as amended by House "A")\******AN ACT CONCERNING BEHAVIOR ANALYSTS.*****SUMMARY**

This bill requires behavior analysts to be licensed by the Department of Public Health (DPH). To obtain a license, an applicant must be (1) certified by the Behavior Analyst Certification Board ("board") or (2) eligible for licensure by endorsement. Current law prohibits representing oneself as a "board certified behavior analyst" unless certified by the board.

Among other exemptions, the bill's licensure requirement does not apply to individuals providing behavior analysis while acting within the scope of their professional credential and training, as long as they do not hold themselves out as behavior analysts.

The bill eliminates current provisions on required qualifications for individuals providing applied behavior analysis as part of special education services for students with autism spectrum disorder. Under the bill, such individuals must be licensed or qualify under one of the bill's licensure exemptions, just like others providing behavioral analysis.

The bill sets the grounds for DPH disciplinary action against licensees and specifies that no new regulatory board is created for behavior analysts. It also specifies that assistant behavior analysts must work under a licensed behavior analyst's supervision. (By law, assistant analysts must be board certified.)

The bill also makes technical and conforming changes, such as replacing references to "certified" behavior analysts with "licensed"



behavior analysts in certain insurance statutes.

\*House Amendment "A" (1) changes the bill's effective date from January 1, 2018 to July 1, 2018; (2) requires license renewal annually rather than every two years; and (3) makes a minor change to one of the bill's exemptions from licensure.

EFFECTIVE DATE: July 1, 2018

## **BEHAVIOR ANALYST LICENSURE**

### ***Behavior Analysis Definition (§ 1)***

Under the bill, "behavior analysis" is the design, implementation, and evaluation of environmental modifications, using behavior stimuli and consequences, to produce socially significant improvement in human behavior. This may include direct observation, measurement, and functional analysis of the relationship between the environment and behavior. The term does not include psychological testing, neuropsychology, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, cognitive behavioral therapy, psychotherapy, or long-term counseling.

### ***Licensure Requirement and Exemptions (§ 2)***

Under current law, it is a class D felony, punishable by imprisonment for up to five years, a fine of up to \$5,000, or both, for someone not board-certified to represent himself or herself as a board certified behavior analyst. The bill removes the criminal penalty and instead generally prohibits anyone without a behavior analyst license from (1) practicing behavior analysis or (2) using the title "behavior analyst" or any title, words, letters, or abbreviations that may reasonably be confused with behavior analyst licensure.

These restrictions do not apply to:

1. individuals who provide behavior analysis or assist in the practice of behavior analysis while acting within the scope of practice of their license or certification and training, as long as they do not hold themselves out to the public as behavior

analysts;

2. students enrolled in a board-accredited behavior analysis educational program or a graduate education program in which behavior analysis is an integral part of the course of study, if they are performing behavior analysis or assisting in such analysis under a licensed behavior analyst's direct supervision;
3. instructors in board-approved courses;
4. assistant behavior analysts working under a licensed behavior analyst's supervision in accordance with board standards;
5. individuals implementing an intervention based on behavior analysis under a licensee's supervision; or
6. family members, guardians, or caretakers implementing a behavior analysis treatment plan under a licensee's direction.

***License Applications, Qualifications, and Renewals (§§ 3 & 4)***

The bill requires the DPH commissioner to issue a behavior analyst license to any applicant who submits, on a DPH form, satisfactory evidence that he or she is board certified as a behavior analyst.

The bill also allows for licensure by endorsement for individuals who are not board certified. Such an applicant must provide DPH with satisfactory evidence that he or she is licensed or certified as a behavior analyst (or as someone entitled to perform similar services under a different title) in another state or jurisdiction. That jurisdiction's requirements for practicing must be substantially similar to or greater than Connecticut's, and there must be no pending disciplinary actions or unresolved complaints against the applicant.

The license application fee is \$350, and the annual renewal fee is \$175. To renew, licensees must provide satisfactory evidence that they are board certified. (Thus, individuals licensed by endorsement must become board certified if they seek to renew their license.)

***Enforcement and Disciplinary Action (§ 5)***

The bill allows the DPH commissioner to take disciplinary action against a licensed behavior analyst for:

1. failing to conform to accepted professional standards;
2. a felony conviction;
3. fraud or deceit in obtaining or seeking reinstatement of a license or in the practice of behavior analysis;
4. negligence, incompetence, or wrongful conduct in professional activities;
5. an inability to conform to professional standards because of a physical, mental, or emotional illness;
6. alcohol or substance abuse; or
7. willfully falsifying entries in any hospital, patient, or other behavior analysis record.

By law, disciplinary actions available to DPH include (1) revoking or suspending a license, (2) censuring the violator, (3) issuing a letter of reprimand, (4) placing the violator on probation, or (5) imposing a civil penalty of up to \$25,000 (CGS § 19a-17). As under existing law for various other health professions, the bill allows the commissioner to order a licensee to undergo a reasonable physical or mental examination if his or her capacity to practice safely is under investigation.

The bill allows the commissioner to petition Hartford Superior Court to enforce such an examination order or any disciplinary action he takes. He must give the person notice and an opportunity to be heard before taking disciplinary action.

***Behavior Analysis Services for Students with Autism Spectrum Disorder (§ 8)***

By law, school districts must provide applied behavior analysis for students with autism spectrum disorder who require the services (1) according to a special education individualized education program or (2) under an educational plan established under section 504 of the 1973 federal Rehabilitation Act.

Under current law, to provide these services, a person generally must either be (1) licensed by DPH or certified by the State Department of Education (SDE) and the services must be within the scope of the license or certificate or (2) board certified as a behavior analyst or assistant behavior analyst. If the SDE commissioner determines that there are not enough such individuals as needed, current law allows her to authorize others with certain educational backgrounds to provide the services, under the supervision of a board-certified behavior analyst.

The bill eliminates these provisions and instead requires individuals providing behavior analysis to students with autism to either be licensed or exempt from licensure as specified above (see § 2).

### **COMMITTEE ACTION**

#### Public Health Committee

Joint Favorable

Yea    26    Nay   0    (03/22/2017)

#### Appropriations Committee

Joint Favorable

Yea    47    Nay   0    (05/12/2017)